

REMARKS

This responds to the Final Office Action mailed on June 22, 2009.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-13, 52, 53 and 60-70 remain pending in this application.

§ 103 Rejection of the Claims

Claims 1-13, 52, 53 and 60-70 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,403,441 B1 to Takehiro *et al.* (hereinafter, “Takehiro”) in view of U.S. Patent No. 5,392,189 to Fazan (hereinafter, “Fazan”). Applicants disagree with the foregoing stated grounds of rejection. Reconsideration of the present application is therefore requested in light following remarks.

The Office Action has cited Takehiro in combination with Fazan in rejecting the foregoing claims. Specifically, the Examiner acknowledges, *inter-alia*, that Takehiro fails to disclose a support surface having a uniform composition. Accordingly, the Office Action has introduced Fazan for allegedly disclosing this missing teaching.

As a preliminary matter, and as described in detail in MPEP §706.07(a), the Examiner is reminded that a second or any subsequent action on the merits may be final, *except* where the new ground of rejection is introduced that is neither necessitated by Applicant's amendment of the claims, nor based on information submitted in an information disclosure statement filed during the period set forth in 37CFR 1.97(c) and with the requisite fee.

Applicants submit that the amendments made in the prior response do not necessitate a new grounds of rejection. Further, Applicants cannot find any prior citation of Fazan in the prosecution history of the present application, nor was Fazan cited in any Information Disclosure Statement in connection with the present application. Applicants therefore respectfully submit that the Examiner's final rejection is improper, and should be withdrawn.

Reservation of Rights

In the interest of clarity and brevity, Applicants may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicants reserve all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicants do not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicants timely object to such reliance on Official Notice, and reserve all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicants reserve all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (206) 219-0554 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies; or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 17, 2010

By Steven Arterberry
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 17, 2010.

Name Amy Moriarty

Signature (Signature)